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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,042

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EXAMINER

MEYER, KATY E

ART UNIT

PAPER NUMBER

3618

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/594,042	<b>Applicant(s)</b> DE KRUIJF, WILHELMUS PETRUS JOHANNES	
	<b>Examiner</b> Katy Meyer	<b>Art Unit</b> 3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 30 is rejected under 35 U.S.C. 102(b) as being anticipated by Riepl (US 5,796,192).**

Riepl discloses a carrying wheel for use in a wheelchair, comprising: at least one electrical wheel motor (2) for an electrical drive of the carrying wheel, wherein the at least one electrical wheel motor includes a stator (9) having at least one support element (66) for support on the fixed world (see Figs. 1 and 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 16 – 18, 20 – 23 and 26 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weisz (US 6,494,278) in view of Meier (US 5,540,297).**

Weisz discloses a wheelchair (column 1, lines 6 – 9), containing: a frame (see 6); at least two carrying wheels (1) detachably connected to the frame by means of an

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insertable axle (2); at least one electrical wheel motor (17) whereby the wheel motor forms a part of the detachable carrying wheel.

Meier discloses a support element (7) that supports the stator of a motor on a wheelchair with respect to the ground (see 15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the wheelchair taught by Weisz with the support element taught by Meier to further support the wheelchair and motor, especially if the wheelchair is tipped.

Weisz further discloses: a motor fitted completely in a hub (4) of each carrying wheel; a transmission (24); and a control system positioned at least partly laterally (60, Fig. 5).

Meier further disclose: a support element that contacts the ground behind the stator (Fig. 1); a support wheel (20); and a limiting element (6) connected swiveling to the support element (7), whereby forceful means (i.e. springs) force apart the top end of the limiting element and the support element (7).

**Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weisz (US 6,494,278) in view of Meier (US 5,540,297) as applied to claim 16 above, and further in view of Mastov et al. (US 5,113,959).**

Weisz and Meier meet all the limitations of the claimed invention, but do not disclose a support element that contacts the ground at several locations. Mastov et al. disclose a support for the stator of a motor on a wheelchair wherein the support contacts the ground at several locations (see Pos. B and C, Fig. 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the

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support disclosed by Meier with the adjustability taught by Mastov et al. so that the stator is supported on both even and uneven terrain.

**Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weisz (US 6,494,278) in view of Meier (US 5,540,297) as applied to claim 16 above, and further in view of Alber (US 5,246,082).**

Weisz and Meier meet all the limitations of the claimed invention, but do not disclose a planetary gear box. Alber teaches an in wheel motor provided with planetary gearing (37 - 39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the wheel motor disclosed by Weisz with the planetary gearing taught by Alber to conserve space within the wheel.

### ***Response to Arguments***

Applicant's arguments filed December 7, 2009 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that it would not have been obvious to modify the removable wheel of Weisz by providing the stator with a ground support element. However, Weisz is concerned with the problem of reducing reaction forces applied to the wheel rim by

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the motor, therefore it would have been obvious to add a stabilizing feature to the stator to further reduce said forces.

Applicant argues that Meier does not show a support element that supports the stator of a motor with respect to the ground. However, as acknowledged by applicant, the stator of the motor (3) is connected to support element (7) which designed for contact with the ground (see support wheel 15).

Applicant argues that Mastov et al. does not disclose a support element that supports the stator on the ground at several locations simultaneously, however said feature is not recited in the claims. Claim 19 requires only that the support element is "set for support on the fixed world at several locations."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katy Meyer whose telephone number is (571)272-5830. The examiner can normally be reached on Monday - Thursday, 8:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN DAYOAN/  
Supervisory Patent Examiner, Art  
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/K. M./  
Examiner, Art Unit 3618